

AMENDED IN ASSEMBLY JANUARY 8, 1998

AMENDED IN ASSEMBLY MAY 8, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1384**

**Introduced by Assembly Members Havice, Baca, Lempert,  
and Napolitano**

(Coauthors: Senators Karnette, McPherson, and Watson)

February 28, 1997

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An act to ~~add Section 1175 to the Code of Civil Procedure~~  
*amend Sections 11571 and 11573.5 of, and to add and repeal*  
*Section 11571.1 of, the Health and Safety Code*, relating to  
controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1384, as amended, Havice. Controlled substances:  
~~unlawful detainer~~ abatement.

*Under existing law, the conduct of certain unlawful activities relating to controlled substances in any building constitutes a nuisance, which may be abated in an action brought by a city attorney or district attorney. Existing law also defines unlawful detainer by a tenant or subtenant to include the commission of a nuisance upon the premises or use of the premises for an unlawful purpose. The sale of a controlled substance on the premises or the use of the premises in furtherance of that activity is deemed to be such a nuisance relating to unlawful detainer. The law relating to unlawful detainer sets forth a summary procedure by which*

*a landlord may demand possession of the premises and evict the tenant or subtenant.*

*This bill would authorize a city attorney or district attorney to file an action for unlawful detainer against any person who is guilty of unlawful detainer by engaging in the above specified activities relating to controlled substances, subject to the procedural requirements contained in those provisions as well as additional procedural requirements prescribed in this bill wherein the court is authorized to issue a partial eviction, as specified. The bill would make this provision applicable only to specified court jurisdictions in Los Angeles County and repeal it as of January 1, 2002, unless a later enacted statute deletes or extends that date.*

*Existing law also provides that with respect to a nuisance abatement action, the court may, under certain circumstances, issue orders to protect witnesses, order the closure of the premises pending trial, and order the defendant to provide relocation assistance to eligible tenants, and that these remedies are in addition to other existing remedies for nuisance abatement actions, including, but not limited to, certain specified remedies.*

*This bill would, in addition, specify that these provisions are in addition to existing remedies relating to the removal from the premises of a person conducting or maintaining a nuisance.*

*This bill would contain legislative findings as to the necessity of a special statute.*

~~Existing law provides for the eviction of a tenant for unlawful detainer, as specified.~~

~~This bill would authorize an action for unlawful detainer to be brought in the name of the People by a district attorney, city prosecutor, or city attorney, or by a landlord in his or her name, when a tenant is committing or permitting to exist any illegal drug activity or drug related nuisance on or within 1,000 feet of the premises, as specified. Among other things, the bill would provide for partial eviction, recovery of costs, imposition of civil penalties, and the release of law enforcement reports and records to a landlord, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

~~SECTION 1. Section 1175 is added to the Code of Civil~~

*SECTION 1. Section 11571 of the Health and Safety Code is amended to read:*

*11571. Whenever there is reason to believe that such a nuisance as described in Section 11570 is kept, maintained, or exists in any county, the district attorney of the county, in the name of the people, may, or the city attorney of any incorporated city or of any city and county, or any citizen of the state resident in the county, in his or her own name, may, maintain an action to abate and prevent the nuisance and perpetually to enjoin the person conducting or maintaining it, and the owner, lessee, or agent of the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining or permitting the nuisance.*

~~This section shall become operative on January 1, 1996.~~

*SEC. 2. Section 11571.1 is added to the Health and Safety Code, to read:*

*11571.1. (a) To effectuate the purposes of this article, the district attorney or city attorney may file, in the name of the people, an action for unlawful detainer against any person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure, with respect to a controlled substance purpose. In filing this action, the district attorney or city attorney shall utilize the procedures set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except that in cases filed under this section, the following also shall apply:*

*(1) Prior to filing an action pursuant to this section, the district attorney or city attorney shall give 15 calendar days written notice to the owner or his or her agent, requiring the owner or his or her agent to file an action for the removal of the person who is in violation of the nuisance or illegal purpose provisions of subdivision 4 of Section 1161 of the Code of Civil Procedure with respect to a controlled substance purpose. This notice shall*

1 include sufficient documentation establishing a violation  
2 of the nuisance or illegal use provisions of subdivision 4 of  
3 Section 1161 of the Code of Civil Procedure. A copy of the  
4 notice shall be sent to the tenant.

5 (2) Upon the failure of the owner or his or her agent  
6 to file an action pursuant to this section, or having filed an  
7 action, if the owner fails to prosecute it diligently and in  
8 good faith, the district attorney or city attorney may file  
9 and prosecute the action, and join the owner and his or  
10 her agent as defendants in the action. This action shall  
11 have precedence over any similar proceeding thereafter  
12 brought by the owner or his or her agent, or to one  
13 thereafter brought by the owner or his or her agent and  
14 not prosecuted diligently and in good faith.

15 (3) If a jury or court finds the defendant tenant guilty  
16 of unlawful detainer, the district attorney or city attorney  
17 may be awarded costs in an amount not to exceed six  
18 hundred dollars (\$600). These costs shall be assessed  
19 against the defendant owner, and his or her agent to  
20 whom notice was directed pursuant to paragraph (1), and  
21 shall constitute a lien on the subject real property.

22 (4) Nothing in this article shall prevent a local  
23 governing body from adopting and enforcing laws,  
24 consistent with this article relating to drug abatement.  
25 Where local laws duplicate or supplement this article, this  
26 article shall be construed as providing alternative  
27 remedies and not preempting the field.

28 (5) Nothing in this article shall prevent a tenant from  
29 receiving relief against a forfeiture of a lease pursuant to  
30 Section 1179 of the Code of Civil Procedure.

31 (b) In any proceeding brought under this section, the  
32 court may, upon a showing of good cause, issue a partial  
33 eviction ordering the removal of any person, including,  
34 but not limited to, members of the tenant's household if  
35 the court finds that the person has engaged in the  
36 activities described in Section 11570. Persons removed  
37 pursuant to this section shall be permanently barred from  
38 returning to or reentering any portion of the entire  
39 premises. The court may further order as an express  
40 condition of the tenancy that the remaining tenants shall

1 *not give permission to or invite any person who has been*  
2 *removed pursuant to this subdivision to return to or*  
3 *reenter any portion of the entire premises.*

4 *(c) This section shall only apply to the following courts*  
5 *in the County of Los Angeles:*

6 *(1) Los Angeles Municipal Court downtown*  
7 *courthouse for the Los Angeles Judicial District.*

8 *(2) Van Nuys Branch of the Los Angeles Judicial*  
9 *District.*

10 *(3) Los Cerritos Municipal Court.*

11 *(d) This section shall remain in effect only until*  
12 *January 1, 2002, and as of that date is repealed unless a*  
13 *later enacted statute deletes or extends that date.*

14 *SEC. 3. Section 11573.5 of the Health and Safety Code*  
15 *is amended to read:*

16 11573.5. (a) At the time of application for issuance of  
17 a temporary writ pursuant to Section 11573, if proof of the  
18 existence of the nuisance depends, in whole or part, upon  
19 the affidavits of witnesses who are not peace officers,  
20 upon a showing of prior threats of violence or acts of  
21 violence by any defendant or other person, the court may  
22 issue orders to protect those witnesses, including, but not  
23 limited to, nondisclosure of the name, address, or any  
24 other information which may identify those witnesses.

25 (b) A temporary writ issued pursuant to Section 11573  
26 may include closure of the premises pending trial when  
27 a prior writ does not result in the abatement of the  
28 nuisance. The duration of the writ shall be within the  
29 court's discretion. In no event shall the total period of  
30 closure pending trial exceed one year. Prior to ruling on  
31 a request for closure the court may order that some or all  
32 of the rent payments owing to the defendant be placed  
33 in an escrow account for a period of up to 90 days or until  
34 the nuisance is abated. If the court subsequently orders  
35 a closure of the premises, the money in the escrow  
36 account shall be used to pay for relocation assistance  
37 pursuant to subdivision (d). In ruling upon a request for  
38 closure, whether for a defined or undefined duration, the  
39 court shall consider all of the following factors:

1 (1) The extent and duration of the nuisance at the time  
2 of the request.

3 (2) Prior efforts by the defendant to comply with  
4 previous court orders to abate the nuisance.

5 (3) The nature and extent of any effect which the  
6 nuisance has upon other persons, such as residents or  
7 businesses.

8 (4) Any effect of prior orders placing displaced  
9 residents' or occupants' rent payments into an escrow  
10 account upon the defendant's efforts to abate the  
11 nuisance.

12 (5) The effect of granting the request upon any  
13 resident or occupant of the premises who is not named in  
14 the action, including the availability of alternative  
15 housing or relocation assistance, the pendency of any  
16 action to evict a resident or occupant, and any evidence  
17 of participation by a resident or occupant in the nuisance  
18 activity.

19 (c) In making an order of closure pursuant to this  
20 section, the court may order the premises vacated and  
21 may issue any other orders necessary to effectuate the  
22 closure. However, all tenants who may be affected by the  
23 order shall be provided reasonable notice and an  
24 opportunity to be heard at all hearings regarding the  
25 closure request prior to the issuance of any order.

26 (d) In making an order of closure pursuant to this  
27 section, the court shall order the defendant to provide  
28 relocation assistance to any tenant ordered to vacate the  
29 premises, provided the court determines that the tenant  
30 was not actively involved in the nuisance activity. The  
31 relocation assistance ordered to be paid by the defendant  
32 shall be in the amount necessary to cover moving costs,  
33 security deposits for utilities and comparable housing,  
34 adjustment in any lost rent, and any other reasonable  
35 expenses the court may deem fair and reasonable as a  
36 result of the court's order.

37 (e) At the hearing to order closure pursuant to this  
38 section, the court may make the following orders with  
39 respect to any displaced tenant not actively involved in  
40 the nuisance:

1 (1) Priority for senior citizens, physically handicapped  
2 persons, or persons otherwise suffering from a permanent  
3 or temporary disability for claims against money for  
4 relocation assistance.

5 (2) Order the local agency seeking closure pursuant to  
6 this section to make reasonable attempts to seek  
7 additional sources of funds for relocation assistance to  
8 displaced tenants, if deemed necessary.

9 (3) Appoint a receiver to oversee the disbursement of  
10 relocation assistance funds, whose services shall be paid  
11 from the escrow fund.

12 (4) Where a defendant has paid relocation assistance  
13 pursuant to subdivision (d), the escrow account under  
14 subdivision (b) may be released to the defendant and no  
15 appointment under paragraph (3) shall be made.

16 (f) (1) The remedies set forth pursuant to this section  
17 shall be in addition to any other existing remedies for  
18 nuisance abatement actions, including, but not limited to,  
19 the following:

20 (A) Capital improvements to the property, such as  
21 security gates.

22 (B) Improved interior or exterior lighting.

23 (C) Security guards.

24 (D) Posting of signs.

25 (E) Owner membership in neighborhood or local  
26 merchants' associations.

27 (F) Attending property management training  
28 programs.

29 (G) Making cosmetic improvements to the property.

30 *(H) Notwithstanding the provisions of Chapter 4*  
31 *(commencing with Section 1159) of Title 3 of Part 3 of the*  
32 *Code of Civil Procedure, removal from the premises of*  
33 *any person conducting or maintaining the nuisance.*

34 (2) At all stages of an action brought pursuant to this  
35 article, the court has equitable powers to order steps  
36 necessary to remedy the problem and enhance the  
37 abatement process.

38 *SEC. 4. The Legislature finds and declares that a*  
39 *special law is necessary and that a general law cannot be*  
40 *made applicable within the meaning of Section 16 of*

1 Article IV of the California Constitution because of the  
2 unique circumstances surrounding the drug problem in  
3 the jurisdictions of the Los Angeles Municipal Court, the  
4 Van Nuys Branch of the Los Angeles Judicial District, and  
5 the Los Cerritos Municipal Court in Los Angeles County.  
6 The facts constituting the special circumstances that  
7 distinguish these court jurisdictions in Los Angeles  
8 County from those in other counties are the severity of  
9 the problem and the widespread use of rental housing to  
10 facilitate drug trafficking.

11 Procedure, to read:

12 1175. (a) For purposes of this section, the following  
13 definitions shall apply:

14 (1) “Controlled substance” means a drug, substance,  
15 or immediate precursor, as listed in the Uniform  
16 Controlled Substances Act (Division 10 (commencing  
17 with Section 11000) of the Health and Safety Code).

18 (2) “Drug-related nuisance” means any activity  
19 related to the possession, sale, use, or manufacturing of a  
20 controlled substance that creates an unreasonable  
21 interference with the comfortable enjoyment of life,  
22 property, and safety of other residents. Such activity  
23 includes, but is not limited to, any activity commonly  
24 associated with illegal drug dealing, such as noise, steady  
25 traffic day and night to a particular unit, barricaded units,  
26 sighting of weapons, drug loitering, as described in  
27 Section 11532 of the Health and Safety Code, or other  
28 drug-related circumstances.

29 (3) “Illegal drug activity” means a violation of Chapter  
30 6 (commencing with Section 11350) or Chapter 6.5  
31 (commencing with Section 11400) of Division 10 of the  
32 Health and Safety Code.

33 (4) “Landlord” means an owner, lessor, or sublessor,  
34 including any person, firm, corporation, partnership, or  
35 other entity, who receives or is entitled to receive rent for  
36 the use of any rental unit, or the agent, representative, or  
37 successor thereof.

38 (5) “Premises” means a rental unit and the land on  
39 which it and other buildings of a complex are located and



1 ~~any common areas, including, but not limited to, garage~~  
2 ~~facilities, streets, alleyways, stairwells, and elevators.~~

3 ~~(6) “Rental unit” means any dwelling unit, efficiency~~  
4 ~~dwelling unit, guest room, or suite, including single family~~  
5 ~~residences, duplexes, and condominiums. This term shall~~  
6 ~~also include mobilehomes, whether rent is paid for the~~  
7 ~~mobilehome and the land upon which the mobilehome is~~  
8 ~~located, or the rent is paid for the land alone. Further, it~~  
9 ~~shall include recreational vehicles, as defined in Section~~  
10 ~~799.29 of the Civil Code, if located in a mobilehome park~~  
11 ~~or recreational vehicle park, whether rent is paid for the~~  
12 ~~recreational vehicle and the land upon which it is located,~~  
13 ~~or rent is paid for the land alone.~~

14 ~~(7) “Tenant” means a tenant, subtenant, lessee,~~  
15 ~~sublessee, any person entitled to use or occupancy of a~~  
16 ~~rental unit, or any other person residing in a rental unit.~~

17 ~~(b) An unlawful detainer action pursuant to this~~  
18 ~~chapter may be brought in the name of the People by the~~  
19 ~~district attorney, city prosecutor, or city attorney of any~~  
20 ~~incorporated city or any city and county, or by a landlord,~~  
21 ~~in his or her name, when a tenant is committing or~~  
22 ~~permitting to exist, any illegal drug activity or~~  
23 ~~drug-related nuisance on the premises or within a~~  
24 ~~1,000-foot radius from the boundary line of the premises.~~  
25 ~~The tenant shall be deemed to have terminated his or her~~  
26 ~~lease and the district attorney, city prosecutor, city~~  
27 ~~attorney, or landlord shall, upon service of three-days’~~  
28 ~~notice, be entitled to vacate the premises. A tenant shall~~  
29 ~~not be deemed to have terminated his or her lease by~~  
30 ~~reason of the acts of a third party which were not~~  
31 ~~reasonably under his or her power to control or which~~  
32 ~~were committed without the tenant’s knowledge.~~

33 ~~(c) Prior to the commencement of any action~~  
34 ~~pursuant to this section by the district attorney, city~~  
35 ~~prosecutor, or city attorney, he or she shall either obtain~~  
36 ~~the written consent of the landlord to pursue the action~~  
37 ~~or shall personally serve the landlord with a written~~  
38 ~~notice, in accordance with Article 3 (commencing with~~  
39 ~~Section 415.10) of Chapter 4 of Title 5 of Part 2, requiring~~  
40 ~~the landlord to file an unlawful detainer action for the~~

~~1 removal of the tenant. The notice shall contain as  
2 enclosures sufficient documentation to establish that the  
3 tenant is committing or permitting to exist, any illegal  
4 drug activity or drug related nuisance on the premises or  
5 within a 1,000-foot radius from the boundary line of the  
6 premises. If the landlord does not file such an action  
7 within 10 court days of service of the notice, or having  
8 filed it, does not, in good faith, diligently prosecute it, the  
9 district attorney, city prosecutor, or city attorney giving  
10 the notice may bring a proceeding under this chapter for  
11 such removal as though the district attorney, city  
12 prosecutor, or city attorney were the landlord of the  
13 premises, and the proceeding shall have precedence over  
14 any similar proceeding thereafter brought by the  
15 landlord or to one theretofore brought by him or her and  
16 not prosecuted diligently and in good faith.~~

~~17 (d) In any proceeding brought under this section, the  
18 court may, upon, a showing of good cause, issue a partial  
19 eviction ordering the removal of any person, including,  
20 but not limited to, members of the tenant's household if  
21 the court finds that the person has committed the activity  
22 specified in subdivision (b). Persons removed pursuant to  
23 this subdivision shall be permanently barred from  
24 returning to or reentering any portion of the entire  
25 premises. The court may further order as an express  
26 condition of the tenancy that the remaining tenants shall  
27 not give permission to or invite any person who has been  
28 removed pursuant to this subdivision to return to or  
29 reenter any portion of the entire premises.~~

~~30 (e) In any action brought by the district attorney, city  
31 prosecutor, or city attorney, both the person in possession  
32 of the property and the landlord shall be made  
33 defendants in the proceeding and a court granting a  
34 judgment for possession of the premises pursuant to this  
35 section may, in addition to any other order provided by  
36 law, make an order imposing and requiring the payment  
37 by either or both defendants, of reasonable attorney's fees  
38 and the costs of the proceeding to the plaintiff, and the  
39 payment of a civil penalty by the landlord not exceeding  
40 five thousand dollars (\$5,000) to the municipality in~~

1 ~~which the subject premises is located. Any payments~~  
2 ~~awarded against the landlord shall constitute a lien upon~~  
3 ~~the subject property. A civil penalty shall not be awarded~~  
4 ~~if the court finds during or at the conclusion of a court~~  
5 ~~proceeding brought pursuant to this section that the~~  
6 ~~landlord's failure to file an action was due to a legitimate~~  
7 ~~fear of harassment or retaliation and that the landlord had~~  
8 ~~advised the district attorney, city prosecutor, or city~~  
9 ~~attorney of the reasons for his or her inaction prior to the~~  
10 ~~bringing of an action by the district attorney, city~~  
11 ~~prosecutor, or city attorney.~~

12 ~~(f) Subject to Sections 293 and 841.5 of the Penal Code,~~  
13 ~~the district attorney, city prosecutor, or city attorney may~~  
14 ~~release to the landlord, any reports, including arrest~~  
15 ~~reports, analyzed evidence reports, search warrants, and~~  
16 ~~other crime reports necessary to establish the basis of the~~  
17 ~~unlawful detainer action.~~

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